



CHAIRMAN

Federal Communications Commission

Washington, D.C.  
March 2, 2005

02-278

RECEIVED

The Honorable Ron Kind  
U.S. House of Representatives  
1406 Longworth House Office Building  
Washington, D.C. 20515

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MAR 11 2005

Federal Communications Commission  
Office of the Secretary

Dear Congressman Kind:

Thank you for your February 1, 2005 letter regarding the Commission's rules implementing the Telephone Consumer Protection Act of 1991 ("TCPA"), and the Consumer Bankers Association's Petition for Declaratory Ruling on Preemption of Wisconsin Telemarketing Rules.

The Commission adopted rules establishing a national do-not-call registry and other amendments to its telemarketing rules in a *Report and Order* that it released on July 3, 2003. In establishing the national do-not-call registry, we recognized that states traditionally have had jurisdiction over intrastate calls, while the Commission has had jurisdiction over interstate calls. However, Congress enacted Section 227 and amended Section 2(b) of the Communications Act of 1934 to give the Commission jurisdiction over both interstate and intrastate telemarketing calls. Congress did so based upon the concern that states lack jurisdiction over interstate calls. In the *Report and Order*, the Commission also noted that, although Section 227(e) gives states authority to impose more restrictive intrastate regulations, we believe that it was the clear intent of Congress generally to promote a uniform regulatory scheme under which telemarketers would not be subject to multiple, conflicting regulations.

Therefore, the Commission concluded that any state regulation of interstate telemarketing calls that differs from Commission rules almost certainly would conflict with and frustrate the federal scheme, and almost certainly would be preempted. We indicated that the Commission will consider any alleged conflicts between state and federal requirements and the need for preemption, on a case-by-case basis. Accordingly, any party that believes a state law is inconsistent with Section 227 or our rules may seek a declaratory ruling from the Commission. We reiterated the interest in uniformity – as recognized by Congress – and encouraged states to avoid subjecting telemarketers to inconsistent rules.

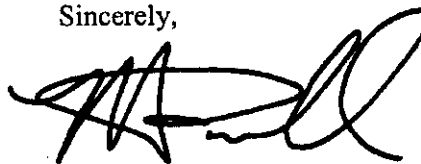
The Commission has received six petitions for declaratory ruling seeking preemption of certain state telemarketing laws. These petitions currently are under review and pending before the Commission. We have placed a copy of your correspondence in the public record for these proceedings, and will consider your views carefully along with the record developed in the proceeding.

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I appreciate your comments and support for the federal do-not-call list. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael K. Powell', with a large, stylized loop at the end.

Michael K. Powell

RON KIND  
THIRD DISTRICT, WISCONSIN  
CHIEF DEPUTY WRITER

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**Congress of the United States**  
**House of Representatives**  
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MINERAL RESOURCES

February 1, 2005

Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-B204  
Washington, DC 20554

**Re: Consumer Bankers Association Petition for Declaratory Ruling with Respect to Certain Provisions of the Wisconsin Statutes and Wisconsin Administrative Code (CG Docket No. 02-278)**

Dear Commissioners:

I am writing to urge you to reject the request of the Consumer Bankers Association to preempt Wisconsin's no call law and rules.

Approximately 80% of Wisconsin's residents are on the state's no call list. If the FCC preempts Wisconsin's no call law, it is sending the message to our citizens that their desire to be free of unwanted telemarketing calls is of no consequence in the face of requests by large, multi-million dollar corporations that want to make telemarketing easier in order to enhance their bottom line. In other words, preemption by the FCC sends a clear signal to our citizens that money is more important than privacy and the ability to spend uninterrupted time with family and friends.

There is no doubt that Wisconsin's citizens will receive substantially more telemarketing calls if the FCC grants the pending petition of the Consumer Bankers Association. Under the federal law, Wisconsin consumers who have an established business relationship with one company can expect to receive calls from a multitude of companies affiliated with that business. These companies will be permitted to solicit our citizens despite the fact that the consumer has no relationship to or interest in the product or service offered by the business. Additionally, when a customer terminates a relationship with a business, preemption will enable businesses to repeatedly call these customers for a period of 18 months. No consumer who terminates a relationship with a business wants that business to continue calling for more than a year.

Wisconsin supported the enactment of the federal no call law. Wisconsin's citizens, however, have repeatedly voiced their desire for the strongest no call law possible. Having been largely free of unwanted telemarketing calls for the two years that our law has been in effect, Wisconsin citizens do not want those calls to begin again. It is on behalf of these citizens that I ask you to deny the petition before you.

Sincerely,

Ron Kind

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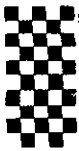
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## Congressman Ron Kind

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Please deliver the following message to: Diane Atkinson, Congressional Liaison Specialist

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<input type="checkbox"/> Betsy Dunford	<input type="checkbox"/> David DeGennaro
<input checked="" type="checkbox"/> <u>Kacee Deener</u>	

**Additional Message:**

Letter re: Consumer Bankers Association  
Petition for Declaratory Ruling with Respect  
to Certain Provisions of the Wisconsin  
Statutes

CG Docket No. 02-278